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17 UNITED STATES DISTRICT COURT
18 DISTRICT OF NEVADA
19 ORACLE USA, INC., et al.,
20 Plaintiffs,
21 v.
22 RIMINI STREET, INC., et al.,
23 Defendants.

CASE NO. 2:10-cv-00106-LRH-VCF

**RIMINI STREET, INC.'S MOTION
TO SEAL PORTIONS OF MOTION
TO EXCLUDE DECLARATION AND
OPINIONS OF ORACLE'S EXPERT,
BARBARA FREDERIKSEN-CROSS,
AND SUPPORTING DOCUMENTS**

NOTICE OF MOTION AND MOTION

Pursuant to the Stipulated Protective Order governing confidentiality of documents entered by the Court on May 10, 2010 (ECF No. 55, “Protective Order”), Rules 5.2(e)–(f) and 26(c) of the Federal Rules of Civil Procedure, and Local Rule 10-5(b), Defendant Rimini Street, Inc. (“Rimini”) respectfully requests that the Court seal: (1) portions of Rimini Street, Inc.’s Motion to Exclude Declaration and Opinions of Oracle’s Expert, Barbara Frederiksen-Cross (“Motion to Exclude”); (2) portions of Exhibits A and D to the Declaration of Eric Vandevelde (“Vandevelde Declaration”); (3) Exhibits B and C to the Vandevelde Declaration; and (4) portions of Exhibits A and B to the Declaration of Owen Astrachan (“Astrachan Declaration”) (collectively, the “Confidential Materials”).

Public, redacted versions of the Motion to Exclude, Exhibits A and D to the Vandevelde Declaration, and Exhibits A and B to the Astrachan declaration were filed on July 31, 2020. Unredacted versions of these documents will be subsequently filed under seal with the Court and linked to the filing of this motion. This Motion to Seal is based on this Notice of Motion and the accompanying Memorandum of Points and Authorities.

MEMORANDUM OF POINTS AND AUTHORITIES

Rimini respectfully requests that the Court seal the Confidential Materials because they contain confidential information regarding Rimini's business processes or information that Oracle has designated as "Confidential Information" or "Highly Confidential Information – Attorneys' Eyes Only" pursuant to the Protective Order. Good cause exists to seal the Confidential Materials, as set forth below.

This Court has regularly granted motions to file under seal similar information, both in *Rimini I* and *Rimini II*. See, e.g., ECF Nos. 226, 325, 518, 904, 990, 1107, 1228, 1250, 1261; see also *Rimini II*, No. 14-CV-1699-LRH-DJA (D. Nev.), ECF Nos. 127, 137, 222, 280–282, 287, 333–334, 371, 391, 434–436, 602, 625–628, 760–768, 836–849, 1122, 1191.

I. ARGUMENT

Federal Rule of Civil Procedure 26(c) provides broad discretion for a trial court to permit sealing of court documents for, *inter alia*, the protection of “a trade secret or other

1 confidential research, development, or commercial information.” Fed. R. Civ. P. 26(c). Rimini
 2 has designated as confidential certain documents and information filed in support of the
 3 Rimini’s Motion to Exclude because they contain confidential information about Rimini’s
 4 proprietary processes. Rimini also asks the Court to seal information that Oracle has designated
 5 as “Confidential Information” or “Highly Confidential Information – Attorneys’ Eyes Only”
 6 pursuant to the Protective Order.

7 **A. Highly Confidential Information About Rimini’s Proprietary Processes**

8 Rimini moves to seal proprietary information regarding the ways in which Rimini
 9 provides services to its clients and runs its business operations. This information is reflected in
 10 portions of the Confidential Materials.

11 Portions of the Confidential Materials contain a description of Rimini’s proprietary
 12 technical processes, including detailed information about Rimini’s proprietary technical tools
 13 and processes, a detailed description of how those tools and processes were developed, and
 14 descriptions of how Rimini provides services to its clients, as well as certain confidential details
 15 of Rimini’s technical processes that Rimini designated “Highly Confidential” elsewhere.

16 Under the Protective Order, “all non-public information” regarding “business plans” or
 17 “proprietary technical information and specifications” are properly designated confidential, and
 18 “extremely sensitive . . . non-public information” including trade secrets are properly
 19 designated as highly confidential. Disclosure of this information, whether in the Motion,
 20 Exhibits A through D to the Vandevelde Declaration, or Exhibits A and B to the Astrachan
 21 Declaration, would advantage Rimini’s competitors, disclosing trade secrets that would allow
 22 Rimini’s competitors to adopt methods that have made Rimini successful, and more easily allow
 23 them to compete in the third-party software service marketplace. *See Hologram USA, Inc. v.*
 24 *Pulse Evolution Corp.*, No. 14-CV-772, 2015 WL 105793, at *2 (D. Nev. Jan. 7, 2015)
 25 (granting motion to seal where documents “contain[ed] information that could injure Plaintiffs’
 26 competitive posture in the . . . industry”); *Spectrum Pharm. Inc. v. Sandoz Inc.*, No. 12-CV-111,
 27 2014 WL 4202540, at *2 (D. Nev. Aug. 21, 2014) (granting motion to seal where documents
 28 contained “proprietary, business practice, trade secret, and technical information that could

1 injure the parties' competitive posture"); *Clark v. Metro. Life Ins. Co.*, No. 08-CV-158, 2010
 2 WL 1006823, at *1 (D. Nev. Mar. 16, 2010) (granting motion to seal materials that would
 3 "bring attention to MetLife's confidential internal business deliberations, organization, and
 4 capabilities").

5 This Court has previously granted motions to file under seal portions of documents
 6 containing this type of confidential information regarding Rimini's internal business processes.
 7 See, e.g., ECF Nos. 226, 325, 518, 904, 990, 1107, 1228, 1250, 1261; see also *Rimini II*, No. 14-
 8 CV-1699-LRH-DJA, ECF Nos. 627, 1240. Sealing references to Rimini's proprietary
 9 information will not frustrate the public's visibility into the judicial process because Rimini
 10 requests the targeted sealing of particularly sensitive information and leaves all other documents
 11 unsealed.

12 **B. Information Designated Highly Confidential Pursuant to the Protective Order**

13 The Protective Order provides that:

14 Counsel for any Designating Party may designate any Discovery Material as
 15 "Confidential Information" or "Highly Confidential Information – Attorneys'
 16 Eyes Only" under the terms of this Protective Order only if such counsel in good
 17 faith believes that such Discovery Material contains such information and is
 18 subject to protection under Federal Rule of Civil Procedure 26(c). The
 19 designation by any Designating Party of any Discovery Material as
 20 "Confidential Information" or "Highly Confidential Information – Attorneys'
 21 Eyes Only" shall constitute a representation that any attorney for the Designating
 22 Party reasonably believes there is a valid basis for such designation.

23 Protective Order ¶ 2.

24 Rimini requests that the Court seal portions of the Confidential Materials that describe
 25 or otherwise reveal information that Oracle has designated "Highly Confidential" under the
 26 terms of the Protective Order. By designating the information "Highly Confidential," the
 27 designating party has represented that the information cited is subject to protection under
 28 Federal Rule of Civil Procedure 26(c). Protective Order ¶ 2. This Court has regularly granted
 motions to file under seal similar information, both in *Rimini I* and *Rimini II*. See, e.g., ECF
 Nos. 226, 325, 518, 904, 990, 1107, 1228, 1250, 1261; see also *Rimini II*, No. 14-CV-1699-
 LRH-DJA (D. Nev.), ECF Nos. 280, 391, 460, 518, 541, and 549.

1 **II. CONCLUSION**

2 For the foregoing reasons, Rimini respectfully requests that the Court grant leave to file
3 under seal the Confidential Materials.

4

5 Dated: July 31, 2020

6 GIBSON, DUNN & CRUTCHER LLP

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8 By: /s/ Eric D. Vandevelde
Eric D. Vandevelde

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10 *Attorneys for Defendant*
Rimini Street, Inc.

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